



Attorney Docket: 951/49628
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: WERNER ZAGLER
Serial No.: 09/803,360 Group Art Unit: 2632
Filed: MARCH 12, 2001 Examiner: Julie Bichngoc Lieu
Title: METHOD AND SYSTEM FOR FACILITATING ENTRY INTO
OR OUT OF A MOTOR VEHICLE

APPEAL BRIEF

Commissioner for Patents
Washington, D.C. 20231

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Technology Center 2600

Sir:

On January 17, 2003, Appellant appealed to the Board of Patent Appeals from the final rejection of claims 1-9. The following is Appellant's Appeal Brief submitted pursuant to 37 C.F.R. §1.192.

REAL PARTY IN INTEREST

The real party in interest is Bayerische Motoren Werke Aktiengesellschaft, Petuelring 130, D-80788 Muenchen, Germany, as noted in an Assignment from the inventors to Bayerische Motoren Werke Aktiengesellschaft, dated June 11, 2001, and recorded in the U.S. Patent and Trademark Office at Reel 011885, Frame 0162.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

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STATUS OF CLAIMS

Claims 1-9 have been finally rejected. Appellant appeals the final rejection of claims 1-9, a copy of which are attached as Appendix A.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection.

SUMMARY OF THE INVENTION

Appellant's invention is directed to a method and system for facilitating entry into or out of a motor vehicle. Doing so is often problematic depending on the vehicle surroundings, for example, when the vehicle is parked in a narrow parking space (page 1, paragraph 3). With frameless vehicle doors, it is known in the prior art to completely lower the window pane to ease entry into the vehicle upon receiving a double unlock door command, for example, from a remote transmitter (p. 1, ¶ 3). Such an operation is problematic, however, as in many instances the operator accidentally and unintentionally gives an unlock command twice. Even more detrimental, this often occurs when the operator is not in the vicinity of the vehicle, which leaves the vehicle and its contents open to theft or other vandalism (pp. 1-2, ¶ 4).

Appellant's claimed method and system facilitates entry into or out of the motor vehicle by requiring that, in addition to providing a double unlock door command. The vehicle door must also be simultaneously or subsequently opened

(p. 3, ¶ 8, Fig. 2). Only then will the window of the corresponding door be lowered completely to facilitate entry (¶ 8).

In one embodiment, the unlock command can be given by way of a remote radio operation or by way of a command point at the vehicle door (p. 3, ¶ 10).

As shown in Fig. 1, Appellant's system provides a control device 12, which receives signals from a receiver 16 and door switch 14. The control device 12 operates a window actuator 10. In accordance with the invention, the control device operates the actuator to completely lower the window of the vehicle door when a double unlock command has been received and, either simultaneously or subsequently, the vehicle door has been opened (¶¶ 15, 19 and 21-22).

ISSUES

Are claims 1-9 obvious German Patent DE 42 03 512 C1, which does not lower the vehicle window until a separate and additional action by the operator after opening the door occurs?

GROUPING OF THE CLAIMS

Method claims 1, 2 and 3 and software product claim 9 stand or fall together. Method claim 4 stands separately.

System claims 5, 6 and 8 stand or fall together. System claim 7 stands or falls separately.

ARGUMENT

Are claims 1-9 obvious German Patent DE 42 03 512 C1, which does not lower the vehicle window until a separate and additional action by the operator after opening the door occurs?

The Examiner finally rejected claims 1 - 9 as obvious under 35 U.S.C. §103(a) over German Patent DE 42 03 512 C1.

As recited in each of Appellant's independent claims 1, 5 and 9, the present invention completely lowers the window of the vehicle upon the occurrence (or detection) of both the double unlock command and the opening of the vehicle door. Appellant's invention thus advantageously lowers the window immediately upon the user operating the door handle, for example, to open the vehicle door. This allows for a safer opening of the door as the window is immediately driven away from its sealing elements arranged at the top of the door frame so as to minimize any damage thereto.

By contrast, DE '512 requires a separate and additional action by the user after opening the door to cause the lowering of the window. This separate and additional action, as will be noted below, requires the user to actuate the door handle for a specified period of time. Hence, as a result, the method described in DE '512 can damage sealing elements since the vehicle door is likely already opened before the window begins lowering. Additionally, this separate door handle actuation required by DE '512 is often an uncomfortable one for the user to perform.

Referring to Figure 2 of DE '512 (translated version attached hereto), two operating modes are described for the user to enter the vehicle. In the right hand branch 12, the door is unlocked and, afterwards, opened by the user

operating the door handle. After entering into the vehicle, the door is then closed. Importantly, no movement of the window occurs in this operation even though the door has been opened by the user operating the door handle.

In the left hand branch 13 of Figure 2, however, the door is first unlocked and, afterwards, the door handle is operated or actuated for at least one complete second, whereafter the door's window is then automatically lowered into its lowest position. Afterwards, the user enters the vehicle interior and closes the door such that the window is automatically closed.

As is clearly evident from the operation described in Figure 2 of DE '512, the user is required to perform a separate actuation of the door handle for a defined time period, i.e. at least one full second. This additional actuation, such as holding the door handle in an open position for the extended period of time, may be uncomfortable to the user, especially in the event the door is swinging open at the same time. By contrast, Appellant uses the "double unlock command", which is much simpler for the user.

In the initial Office Action on page 3, the Examiner maintained that DE '512 provided a control device to "completely lower the window of the vehicle door when an unlock command has been received and the vehicle door has been opened simultaneously". Of course, this is not correct as clearly shown in the right hand branch 12 of Fig. 2. There, an unlock command was received and the vehicle door opened and yet the window was not completely lowered. Rather, as noted above, DE '512 requires a separate additional actuation, such as by operating the door handle for an extended time period, to cause the lowering of the window. This has the disadvantageous effects noted above.

Moreover, by requiring the user to operate the door handle for the extended period of time to automatically lower the window, the door will generally already open before the window is lowered even a minimal amount. Hence, the user may open the door at a phase where the window is still in contact with the top sealing element of the door frame such that the sealing element may be damaged.

In Appellant's invention, on the other hand, the window is lowered upon the occurrence of both the double unlock command and the opening of the vehicle door, such as by moving the door handle. This immediately drives the window away from the sealing elements before the door itself is swung-open away from the sealing elements.

Method Claims 1-3 and Software Product Claim 9

Appellant's independent method claim 1 requires the acts of (a) providing a double unlock door command, (b) simultaneously or subsequently opening a vehicle door, and (c) completely lowering a window of the vehicle door upon the occurrence of both the double unlock command and opening of the vehicle door. As noted above, DE '512 clearly does not completely lower a window of the vehicle door upon the occurrence of both the double unlock command and the opening of the vehicle door. Else, the right hand branch 12 of Figure 2 in DE '512 would result in a lowering of the window, which it does not. This complete lowering is only accomplished when an additional action occurs, i.e., when the door handle is actuated for an extended period of time.

In responding to Appellant's initial reply, the Examiner apparently ignores the language of "upon the occurrence" contained in Appellant's method claim 1. The Examiner argues that DE '512 lowers the window when it detects that an unlock command has been received and the door has been opened or simultaneously or subsequently (see "Response to Argument 1", p. 5 of final Office Action). This is simply not true, however, as noted above. As discussed, DE '512 does not lower the window upon the occurrence of these two things happening. Rather, it lowers the window upon the occurrence of a third action, namely the extended actuation time period for the door handle. Hence, Appellant submits independent method claim 1 and software product claim 9 are patentable over DE '512. Further, dependent claims 2 and 3 are also submitted to be patentable thereover.

Dependent Claim 4

Appellant's dependent method claim 4 further recites the acts of monitoring the closing of the window by an anti-squeeze device. Appellant respectfully submits the Examiner has not made a *prima facie* case of obviousness for rejecting this claim. In that regard, the Examiner alleges in a mere conclusory fashion that an anti-squeeze device is "inherent" in the system of DE '512. No evidence, reasoning or even argumentation is provided for this alleged "inherency". And, in fact, Appellant submits it is far from inherent that vehicles be equipped with anti-squeeze devices. Hence, Appellant submits dependent method claim 4 is patentable over DE '512.

System Claims 5, 6 and 8

Appellant's independent system claim 5 recites a system comprising an unlocking device for unlocking the vehicle door and a control device for controlling a window actuator. The control device has inputs which receive a signal reflecting an unlock command and a signal which corresponds to a door opening or closing action. The control device operates the actuator to completely lower the window of the vehicle door when a double unlock command has been received and, either simultaneously or subsequently, the vehicle door has been opened.

As noted above with respect to method claim 1, Appellant submits independent system claim 5 is patentable over DE '512. No where does DE '512 disclose its control device completely lowering the window when a double unlock command has been received and, either simultaneously or subsequently, the vehicle door has been opened. Rather, DE '512 is controlled such that the lowering of the window occurs upon an extended operating of a door handle. Hence, Appellant submits independent system claim 5 is patentable over DE '512, along with dependent claims 6 and 8.

Dependent Claim 7

Appellant's claim 7 further recites an anti-squeeze device which monitors the closing operation of the window. As noted above, the Examiner has not made a *prima facie* case of obviousness for rejecting this claim. It is simply insufficient to allege inherency with respect to such a feature.

CONCLUSION


For the foregoing reasons, Appellant submits claims 1-9 are patentable over DE '512. It is respectfully requested that the final rejection be reversed and the application allowed.

This Appeal Brief is accompanied by a check in the amount of \$320.00 in payment of the required appeal fee.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 05-1323 (Docket #951/49628). A triplicate copy of this Appeal Brief is attached.

Respectfully submitted,

March 17, 2003


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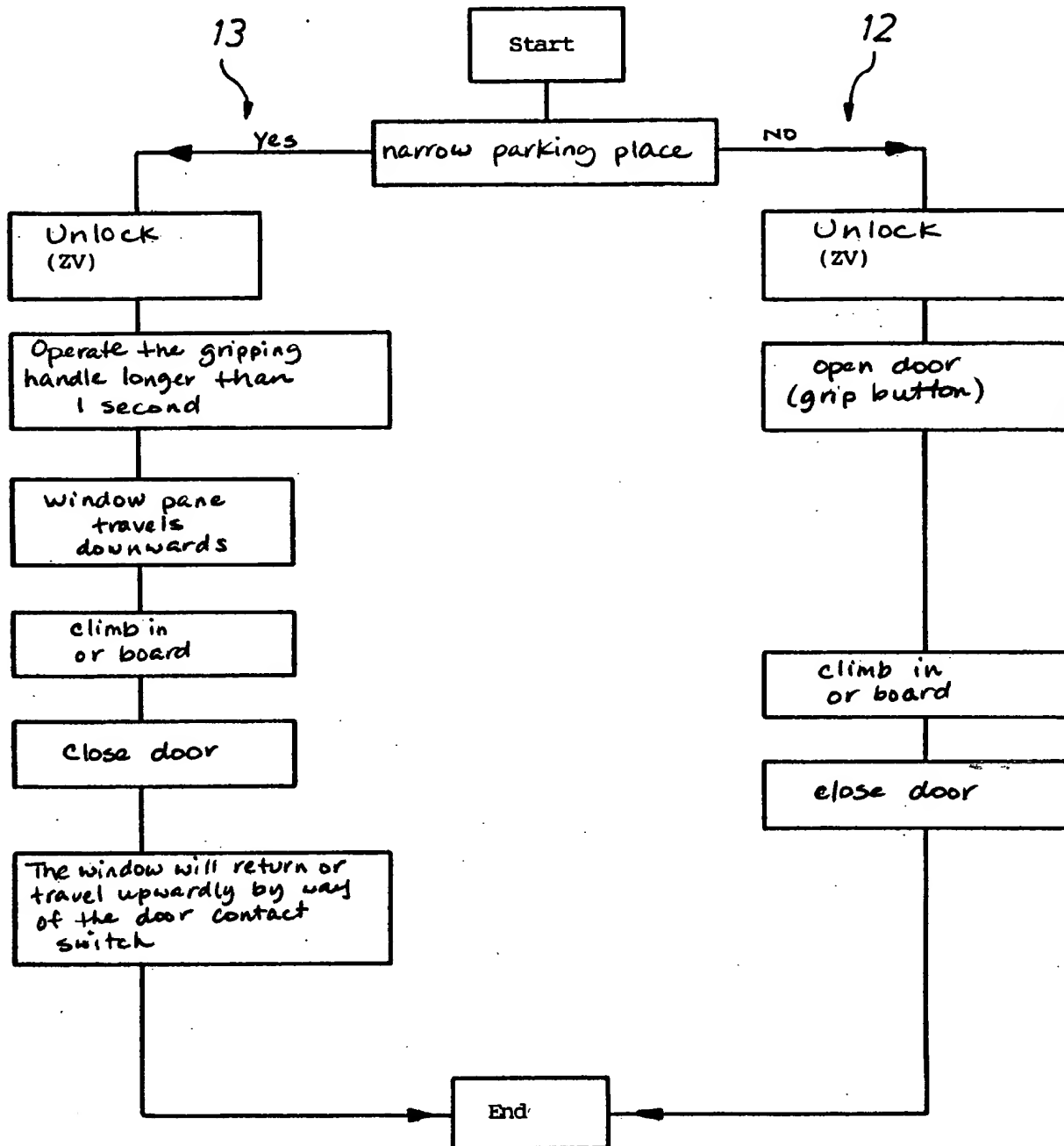


FIG.2

APPENDIX A

1. A method of facilitating entry into or out of a motor vehicle, the method comprising the acts of:

providing a double unlock door command;
simultaneously or subsequently opening a vehicle door; and
completely lowering a window of the vehicle door upon the occurrence of both the double unlock command and the opening of the vehicle door.

2. The method according to Claim 1, further comprising the act of subsequently completely closing the window of the vehicle door after the vehicle door is closed.

3. The method according to Claim 1, wherein the act of providing the double unlock command is carried out via at least one of a remote radio operation and a vehicle door command point actuation.

4. The method according to 2, wherein the act of completely closing the window of the vehicle door further comprises the act of monitoring the closing by an anti-squeeze device.

5. A system for facilitating entry into or out of a motor vehicle having at least one vehicle door, in which a window is lowerable and closeable and to which an opening/closing detecting device is assigned, the system comprising:

an unlocking device for unlocking the vehicle door;
a control device for controlling a window actuator; and
wherein the control device has inputs which receive a signal reflecting an

unlock command and a signal which corresponds to a door opening or closing action, said control device operating the actuator to completely lower the window of the vehicle door when a double unlock command has been received and, either simultaneously or subsequently, the vehicle door has been opened.

6. The system according to Claim 5, wherein said control device operates the actuator to completely close the window of the vehicle door after the vehicle door is closed.

7. The system according to Claim 6, further comprising an anti-squeeze device which monitors the closing operating of the window.

8. The system according to Claim 5, wherein the unlocking device comprises one of a remote-controlled operable device and a vehicle door command point.

9. A software product for controlling an opening and closing of a window of a vehicle door to facilitate entry into or out of a motor vehicle, the software product comprising a computer readable medium having stored thereon program code segments that:

detect an unlock command signal;

detect an opening of a door of the motor vehicle; and

activate a complete lowering of a window of the door after detecting a double unlock command and, either simultaneously or subsequently, the opening of the vehicle door.